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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2011-399*

11 **IRENE W. MULELE**  
12 **27709 Sand Dollar Way**  
13 **Moreno Valley, CA 92555**

**A C C U S A T I O N**

14 **Registered Nurse License No. 637945**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.E.D., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about June 1, 2004, the Board issued Registered Nurse License Number  
24 637945 to Irene W. Mulele ("Respondent"). The registered nurse license was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on December 31, 2011,  
26 unless renewed.

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## STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

.....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action....

(b) Procuring his or her certificate or license by fraud, misrepresentation, or mistake.

## COST RECOVERY

6. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## FIRST CAUSE FOR DISCIPLINE

**(Disciplinary Action by the CA Board of Vocational Nursing and Psychiatric Technicians)**

7. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the California Board of Vocational Nursing and Psychiatric Technicians ("CA BVNPT"), as follows:

1           8.    On or about March 11, 2004, pursuant to a Citation Order, No. 04-0031-L, the CA  
2 BVNPT issued a Citation in the amount of \$2,500.00.

3           9.    The CA BVNPT based its Citation Order on the following facts:

4           a.    On or about July 2002, Respondent was employed as a licensed vocational nurse at  
5 Fairview Development Center, Costa Mesa, California, and assigned to Residence 101;

6           b.    On or about July 4, 2002, Respondent was assigned client care on the night shift,  
7 which included a 29 year old female ("Patient") with diagnoses of profound mental  
8 retardation, microcephaly, chronic eye infection, osteoporosis, dysphagia, and esophageal  
9 reflux;

10          c.    Due to Patient's swallowing difficulty, all nourishment and medications were  
11 administered per gastrostomy tube and the patient's treatment plan required monitoring  
12 every two hours;

13          d.    On or about July 5, 2002, at approximately 0500 hours, Respondent found Patient  
14 hanging through the raised side rails with the head on the floor and the neck  
15 hyperextended. Respondent summoned help, placed the Patient on the floor and assisted  
16 with resuscitation efforts.

17          e.    All efforts to resuscitate Patient were unsuccessful and pronouncement of death was  
18 made at 0541 hours.

19          f.    In subsequent interviews to determine the circumstances of Patient's demise,  
20 Respondent gave contradictory explanations of her role in providing care and monitoring  
21 as required by the Patient's treatment plan.

22          g.    On or about July 5, 2002, Respondent provided a statement indicating she first  
23 checked Patient at 2340 hours (7/4/02) and found her in a supine position looking  
24 uncomfortable. Respondent also indicated she checked Patient again at 2400 hours and  
25 hung a feeding tube, and again checked at 0400 hours, finding the Patient was "half awake  
26 and half asleep" and lying on her left side.

1 h. However, in follow-up interviews, Respondent gave different responses concerning  
2 the care of Patient on the night of July 4, 2002 and into the early morning hours of July 5,  
3 2002.

4 i. On or about July 9, 2002, Respondent indicated to an interviewer that she did perform  
5 a check on the Patient at 0200 hours and at that time found the patient to be lying in a  
6 supine position and that she repositioned Patient on her left side. Respondent further  
7 indicated that at 0400 hours she conducted a check of patient and found her lying quietly  
8 on her left side with her eyes open.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Procurement of License by Fraud, Misrepresentation, or Mistake)**

11 10. Respondent is subject to discipline under Code section 2761, subdivision (b), on the  
12 grounds of unprofessional conduct, in that she provided knowingly false responses in a  
13 Application for Licensure by Examination.

14 11. On or about September 15, 2003, Respondent submitted a signed Application for  
15 Licensure by Examination to the California Board of Registered Nursing.

16 12. In the Application, Respondent gave a "NO" response to Question 11 (f) as follows:  
17 "11 (f). Have you ever had disciplinary proceedings against any license as an RN or any  
18 health-care related license including revocation, suspension, probation, voluntary  
19 surrender, or any other proceeding?"

20 13. At the time respondent made the "NO" response to the question above, she had  
21 already been subject to the disciplinary proceeding described in Paragraphs 7 through 9.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct)**

24 14. Respondent is subject to discipline under Code section 2761, subdivision (a), on the  
25 grounds of unprofessional conduct, Respondent committed acts constituting unprofessional  
26 conduct, as more particularly set forth in paragraphs 7 through 13, above.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 637945, issued to Irene W. Mulele;

2. Ordering Irene W. Mulele to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: October 29, 2010 Louise R. Bailey

LOUISE R. BAILEY, M.E.D., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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